

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: IMPELLIZZERI, Frederic

SERIAL NO.: 10/530,683

ART UNIT: 3733

FILED: September 02, 2005

EXAMINER: Hoffman, M. C.

TITLE: SELF-LOCKING OSTEOSYNTHESIS DEVICE

Amendment C: REMARKS

Upon entry of the present amendments, Claims 1 -18 have been previously canceled, Claim 24 is canceled in the present amendment, and Claims 19 - 23 and 25-28 are currently pending. The independent Claims 19 and 26 have been amended. Claim 24 has been canceled. Claim 27 has been amended. Claim 28 is a new independent claim. Reconsideration of the rejections, in light of the forgoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of distinguishing the present invention from the prior art.

In the Office Action, it was indicated that Claims 19-20 and 22-25 were rejected under 35 U.S.C. § 102(e) as anticipated by the Hawkes patent. Claim 21 was rejected under 35 U.S.C. §103 as being obvious over the Hawkes patent. Claim 26 was rejected under 35 U.S.C. §103 as being obvious over the Hawkes patent in view of the Weil publication. Claim 27 was listed as rejected, but a specific ground of the rejection was not included in the Office Action.

As an overview to the present reply, independent Claims 19 and 26 have each been amended to more accurately define the features of the invention, which are not shown nor suggested by the Hawkes patent or combination with the Hawkes patent. In particular, the limitation of Claim 27 has been incorporated into both independent Claims 19 and 26. The shoulder extended into the opening of the plate is not a structure disclosed or suggested by the Hawkes patent. Additionally, the

inventive fixed engagement of the inserts with the openings with the shoulder are now clearly recited in the claim language. This structural relationship between the inserts and openings is not anticipated nor made obvious by the Hawkes patent or the combination of prior art. The insert is also described as having a greater width than the plate. The subject matter of this claim language is not new matter, since these characteristics were previously claimed in Claim 27 and shown in Figures 4-6 of the drawings.

Furthermore, the independent Claims have positively recited the fixed position of the inserts when screws are angularly received in the openings. This subject matter was discussed in the specification at Paragraphs [0016], [0034] to [0037] and [0043] and in Figure 7 at reference numerals 4, 8 and 10. In contrast to the disclosure of the Hawkes patent, the inserts are fixed before the screws are received in the holes, and the angular threading of the screws is independent from the rotation or tilt of the inserts within the plane of the plate. The fixation of the insert of the present invention is not dependent upon the orientation of the insert and angle of the screw into the plane of the plate. It is understood that inserts in a fixed position are disclosed in the prior art; however, Applicant contends that the amended claim language more particularly recites inserts fixed throughout the installation process, not just at the end of the installation of the screws. This limitation, recited in both independent Claims 19 and 26, is not new matter.

Independent Claim 28 is a new claim reciting the subject matter of Claim 26 in alternative language with respect to fixed insert when the screw is angularly received. In particular, Claim 28 recites the insert and plate as planarly fixed when screws are angularly received. This language is a variation the lack of tilting of the insert within the plane of the plate for angular application of the screws.

With respect to the prior art rejections, Applicant respectfully contends that Hawkes patent no longer anticipates nor makes obvious, in combination, the present invention. The inserts are now claimed are not disclosed by the rotating and tilting inserts of the prior art. The frictional engagement for locking does not anticipate the fixed shoulder engagement of the present invention. Additionally, the secured angular reception of the screws is different from the prior art in the relationship and orientation of the screw and insert. The prior art inserts have subsequent size limitation and manufacturing limitation relative to the plate. For example, the prior art inserts must have a width smaller than the plate, and the such inserts cannot be integral with the plate until the screw is received in the plate. Such differences from the prior art are inventive features allowing greater reliability, functionality, and adaptability in self-locking osteosynthesis devices.

Claim 24 has been canceled. In reference to the Examiner Interview Summary from July 18, 2007, it was indicated that this product-by-process claim relates to injection molding of the inserts as an inventive aspect. The subject matter is canceled from the present application. Applicant respectfully reserves the right to file a related Continuation-in-Part application or divisional application in order to pursue the patenting of this subject matter.

Claim 27 has been amended to cancel the shoulder element now incorporated into the independent claims. Claim 27 now recites a shape limitation of the inserts, as disclosed in Figures 4-6 with regard to the conical features shown in Figures 4-6 for reference numeral 4. No new matter has been added by this amendment.

Applicant respectfully acknowledges the discussion of the 35 U.S.C. § 112, 6th Paragraph and the method of manufacture options. Such matters would be reserved for related continuation-in-part or continuation applications to be filed independent from the present amendment for the present

invention.

Applicant's attorney respectfully renews a request for the Examiner to contact Applicant's attorney by telephone upon consideration of the present amendment and before any subsequent Office Action. Applicant's attorney can be reached at 713-224-8080, ext. 206, directed to Andrew W. Chu (Reg. No. 46,625).

Based upon the foregoing analysis, Applicant contends that independent Claims 19, 26 and 28 are now in proper condition for allowance. Additionally, those claims which are dependent upon these independent claims should also be in condition for allowance. Reconsideration of the rejections and allowance of the claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

Respectfully submitted,

<u>August 16, 2007</u>	<u>/Andrew W. Chu/</u>
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